

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problem Mailbox.**



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,690	11/16/1999	FRANK HAGEBARTH	Q056494	3299

7590

08/14/2002

SUGHRUE MION ZINN MACPEAK & SEAS PLLC  
2100 PENNSYLVANIA AVENUE N W  
WASHINGTON, DC 200373213

EXAMINER

FERNSTROM, KURT

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/440,690

Applicant(s)

FRANK HAGEBARTH

Examiner

Kurt Fernstrom

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3712

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites the limitation "the termination of the training course" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claim 19 is rejected because there is no period at the end of the claim, thus making it unclear whether the claim was intended to include more subject matter.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 3712

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-5, 7-9 and 14-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Truluck. Truluck discloses in Figures 2-9 and in column 3, line 65 to column 8, line 22 a method of creating a progress plan by a computer 20 comprising defining first time units that represent time periods which a trainee specifies (shown in Figure 3 and column 4, lines 27-42), defining second time units that represent time periods required to execute training units and automatically creating a progress plan in response to the first and second time units defined (both shown in Figure 4 and column 4, lines 43-57). Truluck further discloses in Figure 5 and in column 5, lines 6 to column 6, line 15 that the computer further monitors whether the training units have been completed in accordance with the schedule. With respect to claims 2 and 16, Truluck discloses in Figure 5 and in column 5, lines 23-30 and column 6, lines 1-15 that the user is automatically notified if the training unit is not completed on time. With respect to claims 4 and 17, Truluck discloses in column 5, lines 54-64 that monitoring results are stored for later reference. With respect to claim 5, Truluck discloses in column 6, lines 13-15 that a new schedule can be automatically created when the previous one is not met. With respect to claims 7 and 18, Truluck discloses in column 4, lines 61-65 that the computer automatically sends the progress plan to the

Art Unit: 3712

trainee after its creation. With respect to claims 8, 9 and 19-20, Truluck discloses in column 3, lines 37-49 that method may be performed over a network such as the Internet or an Intranet.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 11-13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Truluck. Truluck discloses all of the limitations of claim 6 with the exception of the step of automatically notifying the trainees of their termination of the training course. Official Notice is taken that it is well known for computer programs to notify the user when a program has ended. Such a step would have been obvious to one of ordinary skill in the relevant art for the purpose of keeping the user fully informed of the progress of the program. certain types of technology Truluck discloses all of the limitations of claims 11-13 and 22 with the exception of the inclusion of certain types of technology such as email, web pages and CD-ROMs. While these features are not explicitly disclosed by Truluck, Official Notice is taken that electronic mail and web pages are extremely well known means of transmitting information over a computer network, and would have been obvious to one of ordinary skill in the relevant art for the purpose of directly notifying a student of any pertinent information regarding the progress plan. Official Notice is further taken

Art Unit: 3712

that CD's and floppy disks are extremely well known means of storing programs and would have been obvious for the purpose of allowing the user to install the program on a computer.

*Response to Arguments*

7. Applicant's arguments with respect to claims 1-9, 11-20 and 22 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cook discloses a system for automatic creation of a schedule for a training program.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303.

KF

July 30, 2002

Kurt Fernstrom  
Kurt Fernstrom